

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANDREDA GOLDEN,

Plaintiff,

vs.

HUBBELL INCORPORATED, a
Connecticut corporation,
also known as HUBBELL
LIGHTING, INC., a
Connecticut corporation, and
HUBBELL INCORPORATED
RETIREMENT PLAN FOR
COLLECTIVELY BARGAINED
HOURLY EMPLOYEES, an
employee benefit plan,

Defendants.

NO. CV-07-0370-LRS

**ORDER DENYING MOTION TO REOPEN
CASE AND RECONSIDER**

BEFORE THE COURT is the Plaintiff's Motion to Reopen Case and Reconsider Order Granting Defendant's Motion to Dismiss (Ct. Rec. 27), filed April 21, 2008 and noted for hearing without oral argument on May 27, 2008. Plaintiff asks the court to reconsider its order granting defendants' motion to dismiss. Since all briefing is before the court at this time and has been fully considered, this order is now being entered.

Motions for reconsideration serve a limited function. Under the Federal Rules of Civil Procedure, motions for reconsideration may be made pursuant to Rule 59(e). The major grounds for granting a motion to reconsider a judgment are: (1) intervening change of controlling law; (2) availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice. School District No. 1J, Multnomah

1 County Oregon v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir.1993). A
2 motion for reconsideration is not appropriately brought to present
3 arguments already considered by the Court. Backlund v. Barnhart, 778
4 F.2d 1386, 1388 (9th Cir.1985). Plaintiff does not argue that there has
5 been a change of controlling law, or that new evidence is available, but
6 expressly argues that the Court committed clear error of law or fact and
7 reconsideration is necessary to prevent a manifest injustice. Ct. Rec.
8 28 at page 2.

9 Plaintiff argues for the first time that the decision of the Court
10 should be reconsidered and set aside because the Amended Divorce Decree
11 essentially had the effect of undoing her divorce from Jones. This
12 cannot be reconciled with the allegations of Plaintiff's Complaint nor
13 the plain meaning of the Amended Divorce Decree. The Amended Divorce
14 Decree did not vacate Plaintiff's and Jones' divorce decree.

15 Plaintiff also argues that the Court erred by applying "Qualified
16 Domestic Relations Order ("QDRO") law. Plaintiff contends that her
17 application for retirement benefits was based upon, and should have been
18 granted on the authority of, a death certificate which stated
19 (incorrectly) that Golden was Jones' surviving spouse. Ct. Rec. 31 at
20 pp. 2-3. The law is clear, however, that without a QDRO, a surviving
21 spouse cannot be a beneficiary under an ERISA benefit plan. See 29
22 U.S.C. §1056(d).¹

23 The undersigned judicial officer concludes that "clear error" did
24 not occur in granting dismissal to defendants, there is no "manifest
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27 ¹This court expresses no opinion concerning plaintiff's
eligibility, or lack thereof, to obtain a QDRO in another forum.

1 injustice" to the plaintiff from that ruling, and new evidence has not
2 been presented which would change the Court's earlier order. Plaintiff
3 According, there is no basis for reconsideration of the Court's April
4 11, 2008 Order Granting Defendant's Motion to Dismiss, Ct. Rec. 26.
5 Accordingly,

6 **IT IS ORDERED** that:

7 1. Plaintiff's Motion to Reopen Case and Reconsider Order Granting
8 Defendant's Motion to Dismiss, **Ct. Rec. 27**, filed April 21, 2008, is
9 **DENIED**.

10 2. The District Court Executive is directed to:

11 (a) FILE THIS ORDER; and

12 (b) PROVIDE A COPY TO COUNSEL OF RECORD AND PRO SE PLAINTIFF.

13 DATED this 20th day of May, 2008.

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15 ***s/Lonny R. Suko***

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17 LONNY R. SUKO
18 UNITED STATES DISTRICT JUDGE
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